

ESTTA Tracking number: **ESTTA618367**Filing date: **07/29/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Legendary Hatfield & McCoy Family Brand, LLC
Granted to Date of previous extension	07/30/2014
Address	415 N. 10th Street St. Louis, MO 63101 UNITED STATES

Attorney information	Don V. Kelly Evans & Dixon, LLC 211 N. Broadway, Suite 2500 St. Louis, MO 63102 UNITED STATES ip@evans-dixon.com, dkelly@evans-dixon.com, emontgomery@evans-dixon.com Phone:314-621-7755
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Applicant Information

Application No	86135625	Publication date	04/01/2014
Opposition Filing Date	07/29/2014	Opposition Period Ends	07/30/2014
Applicant	Justus, Nancy PO Box 1716 Gilbert, WV 25621 UNITED STATES		

Goods/Services Affected by Opposition

Class 011. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Distillation apparatus not for scientific purposes; distilling units; stills not for scientific purposes

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	15 U.S.C. Â§1051(b)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85868805	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND		

Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 alcoholic beverages, namely, distilled spirits

U.S. Application No.	85869110	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND		
Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND		
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 0 First Use In Commerce: 0 metal keychains		

U.S. Application No.	85869116	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND		
Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND		

Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 0 First Use In Commerce: 0 beverageware

U.S. Application No.	85869122	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 wearable garments, namely, hats and shirts
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U.S. Application No.	85869125	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 029. First use: First Use: 0 First Use In Commerce: 0 jellies and jams
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U.S. Application No.	85869129	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND
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Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 0 First Use In Commerce: 0 condiments, namely, barbecue sauce, chili sauce, hot sauces, salsas, molasses, chutney, plum sauces; biscuits and cakes

U.S. Application No.	85868792	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND		
Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND		
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 brewed malt-based alcoholic beverages in the nature of beer		


U.S. Application No.	85869132	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND		


Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND
Description of Mark	NONE
Goods/Services	Class 006. First use: First Use: 0 First Use In Commerce: 0 metal keychains

U.S. Application No.	85869137	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND		
Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND		
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 0 First Use In Commerce: 0 beverageware		

U.S. Application No.	85869140	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND		
Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND		
Description of	NONE		

Mark	
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 wearable garments, namely, hats and shirts

U.S. Application No.	85868811	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 brewed malt-based alcoholic beverages in the nature of beer		

U.S. Application No.	85868818	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 alcoholic beverages, namely, distilled spirits		

U.S. Application No.	85869142	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS		

Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS
Description of Mark	NONE
Goods/Services	Class 006. First use: First Use: 0 First Use In Commerce: 0 metal keychains

U.S. Application No.	85869145	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS		
Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS		
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 0 First Use In Commerce: 0 beverageware		

U.S. Application No.	85869148	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS		
Design Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS		

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 wearable garments, namely, hats and shirts

U.S. Application No.	85868822	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS
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Design Mark	 <p>THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS</p>
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Description of Mark	NONE
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Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 brewed malt-based alcoholic beverages in the nature of beer
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U.S. Application No.	85868829	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS
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Design Mark	 <p>THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS</p>
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 alcoholic beverages, namely, distilled spirits
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U.S. Application No.	85869151	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY MOONSHINE
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 006. First use: First Use: 0 First Use In Commerce: 0 metal keychains

U.S. Application No.	85869155	Application Date	03/07/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY MOONSHINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 0 First Use In Commerce: 0 beverageware		

U.S. Application No.	85869157	Application Date	03/07/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY MOONSHINE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 wearable garments, namely, hats and shirts

U.S. Application No.	85868838	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY MOONSHINE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 brewed malt-based alcoholic beverages in the nature of beer
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U.S. Application No.	85868846	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY MOONSHINE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 alcoholic beverages, namely, distilled spirits
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U.S. Application No.	85868876	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY CHAR
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Design Mark	THE LEGENDARY HATFIELD & MCCOY CHAR
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 brewed malt-based alcoholic beverages in the nature of beer

U.S. Application No.	85868880	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY CHAR		
Design Mark	THE LEGENDARY HATFIELD & MCCOY CHAR		
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 alcoholic beverages		

U.S. Application No.	85868884	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY AMERICANWHISKEY		
Design Mark	THE LEGENDARY HATFIELD & MCCOY AMERICAN WHISKEY		

Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 brewed malt-based alcoholic beverages in the nature of beer

U.S. Application No.	85868889	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY AMERICANWHISKEY
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Design Mark	 <p>THE LEGENDARY HATFIELD & MCCOY AMERICAN WHISKEY</p>
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Description of Mark	NONE
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Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 alcoholic beverages, namely, distilled spirits
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U.S. Application No.	85868897	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY BLACK POWDER
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Design Mark	 <p>THE LEGENDARY HATFIELD & MCCOY BLACK POWDER</p>
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Description of Mark	NONE
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Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 brewed malt-based alcoholic beverages in the nature of beer
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U.S. Application No.	85868903	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE LEGENDARY HATFIELD & MCCOY BLACK POWDER
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 alcoholic beverages, namely, distilled spirits

U.S. Application No.	85868908	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY BOURBON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 brewed malt-based alcoholic beverages in the nature of beer		

U.S. Application No.	85868911	Application Date	03/06/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE LEGENDARY HATFIELD & MCCOY BOURBON		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 alcoholic beverages, namely, distilled spirits

Related Proceedings	91214942 91215829 91215830 91215831 91216913 91214683 91214685 91214687 91214771
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Attachments	85868805#TMSN.png(bytes) 85869110#TMSN.png(bytes) 85869116#TMSN.png(bytes) 85869122#TMSN.png(bytes) 85869125#TMSN.png(bytes) 85869129#TMSN.png(bytes) 85868792#TMSN.png(bytes) 85869132#TMSN.png(bytes) 85869137#TMSN.png(bytes) 85869140#TMSN.png(bytes) 85868811#TMSN.png(bytes) 85868818#TMSN.png(bytes) 85869142#TMSN.png(bytes) 85869145#TMSN.png(bytes) 85869148#TMSN.png(bytes) 85868822#TMSN.png(bytes) 85868829#TMSN.png(bytes) 85869151#TMSN.png(bytes) 85869155#TMSN.png(bytes) 85869157#TMSN.png(bytes) 85868838#TMSN.png(bytes) 85868846#TMSN.png(bytes) 85868876#TMSN.png(bytes) 85868880#TMSN.png(bytes) 85868884#TMSN.png(bytes) 85868889#TMSN.png(bytes) 85868897#TMSN.png(bytes) 85868903#TMSN.png(bytes) 85868908#TMSN.png(bytes) 85868911#TMSN.png(bytes) 86135625_Notice_Opposition.pdf(46785 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/Don V. Kelly
Name	Don V. Kelly
Date	07/29/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No.: 86/135,625

For the Mark: HATFIELD & McCOY STILLS

Published in the *Official Gazette for Trademarks* on April 1, 2014

The Legendary Hatfield & McCoy Family Brand, L.L.C.,

Opposer,

v.

Nancy Justus

Applicant.

NOTICE OF OPPOSITION

The Legendary Hatfield & McCoy Family Brand, L.L.C., (hereinafter “Legendary”) believes it would be damaged and injured by registration of the mark HATFIELD & MCCOY STILLS for “distillation apparatus not for scientific purposes; distilling units; stills not for scientific purposes” in International Class 11, as shown in Application Serial No. 86/135,625, filed on December 5, 2013 (the “Opposed Application”) by Nancy Justus (hereinafter “Applicant”), and published on April 1, 2014 in the *Official Gazette for Trademarks*.

Legendary alleges, solely for the purpose of this proceeding, as grounds for opposition, the following:

Background

1. Legendary is a Missouri limited liability company with its main offices located at 415 North 10th Street, St. Louis, Missouri 63101.

2. The principals of Legendary formed Legendary in furtherance of a concept for a reality television show with a focus on the descendants of the Hatfield and McCoy families of the famous, historical Hatfield-McCoy feud ("Descendants").

3. Using their experience with other spirit brand families, Legendary's principals conceived the idea that the anticipated reality show could be used as a launch pad to market a family of distilled spirit beverages using the phrase "Hatfield & McCoy."

4. In furtherance of the reality show concept, Legendary engaged in dealings with the A&E Television Networks, L.L.C. ("A&E") and Descendants. Deals were reached with these entities and plans for the reality show were put in place.

5. In furtherance of the airing of the reality show, Legendary expended substantial time and sums meeting with the show's producers and characters, engaging in negotiations for required contracts, developing a family of spirit beverages and related goods to be sold under selected branding and coming up with the brand names to protect the family of distilled spirit beverages and goods to be sold.

Legendary's Applications

6. In furtherance of the plan to sell and market distilled spirit beverages Legendary filed the following United States intent-to-use trademark applications on March 6, 2013.

App.No.	Mark	Goods/Services
85/869,110	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND	metal keychains
85/869,116	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND	beverageware
85/869,122	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND	wearable garments, namely, hats and shirts
85/869,125	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND	jellies and jams
85/869,129	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND	condiments, sauces, biscuits and cakes

App.No.	Mark	Goods/Services
85/868,792	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND	brewed malt-based alcoholic beverages in the nature of beer
85/868,805	THE LEGENDARY HATFIELD & MCCOY FAMILY BRAND	alcoholic beverages, namely, distilled spirits
85/869,132	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND	metal keychains
85/869,137	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND	beverageware
85/869,140	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND	wearable garments, namely, hats and shirts
85/868,811	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND	brewed malt-based alcoholic beverages in the nature of beer
85/868,818	THE LEGENDARY HATFIELD & MCCOY FAMILY SPIRIT BRAND	alcoholic beverages, namely, distilled spirits
85/869,142	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS	metal keychains
85/869,145	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS	beverageware
85/869,148	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS	wearable garments, namely, hats and shirts
85/868,822	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS	brewed malt-based alcoholic beverages in the nature of beer
85/868,829	THE LEGENDARY HATFIELD & MCCOY FAMILY OF SPIRITS BRANDS	alcoholic beverages, namely, distilled spirits
85/869,151	THE LEGENDARY HATFIELD & MCCOY MOONSHINE	metal keychains
85/869,155	THE LEGENDARY HATFIELD & MCCOY MOONSHINE	beverageware
85/869,157	THE LEGENDARY HATFIELD & MCCOY MOONSHINE	wearable garments, namely, hats and shirts
85/868,838	THE LEGENDARY HATFIELD & MCCOY MOONSHINE	brewed malt-based alcoholic beverages in the nature of beer
85/868,846	THE LEGENDARY HATFIELD & MCCOY MOONSHINE	alcoholic beverages, namely, distilled spirits
85/868,876	THE LEGENDARY HATFIELD & MCCOY CHAR	brewed malt-based alcoholic beverages in the nature of beer
85/868,880	THE LEGENDARY HATFIELD & MCCOY CHAR	alcoholic beverages, namely, distilled spirits
85/868,884	THE LEGENDARY HATFIELD	brewed malt-based alcoholic beverages in

App.No.	Mark	Goods/Services
	& MCCOY AMERICAN WHISKEY	the nature of beer
85/868,889	THE LEGENDARY HATFIELD & MCCOY AMERICAN WHISKEY	alcoholic beverages, namely, distilled spirits
85/868,897	THE LEGENDARY HATFIELD & MCCOY BLACK POWDER	brewed malt-based alcoholic beverages in the nature of beer
85/868,903	THE LEGENDARY HATFIELD & MCCOY BLACK POWDER	alcoholic beverages, namely, distilled spirits
85/868,908	THE LEGENDARY HATFIELD & MCCOY BOURBON	brewed malt-based alcoholic beverages in the nature of beer
85/868,911	THE LEGENDARY HATFIELD & MCCOY BOURBON	alcoholic beverages, namely, distilled spirits

7. In furtherance of the plan to sell and market distilled spirit beverages Legendary filed the following United States intent-to-use trademark applications on March 7, 2013.

App.No.	Mark	Goods/Services
85/869,167	THE LEGENDARY HATFIELD & MCCOY CHAR	metal keychains
85/869,169	THE LEGENDARY HATFIELD & MCCOY CHAR	beverageware
85/869,173	THE LEGENDARY HATFIELD & MCCOY CHAR	wearable garments, namely, hats and shirts
85/869,177	THE LEGENDARY HATFIELD & MCCOY AMERICAN WHISKEY	metal keychains
85/869,180	THE LEGENDARY HATFIELD & MCCOY AMERICAN WHISKEY	beverageware
85/869,181	THE LEGENDARY HATFIELD & MCCOY AMERICAN WHISKEY	wearable garments, namely, hats and shirts
85/869,185	THE LEGENDARY HATFIELD & MCCOY BLACK POWDER	metal keychains
85/869,186	THE LEGENDARY HATFIELD & MCCOY BLACK POWDER	Beverageware
85/869,189	THE LEGENDARY HATFIELD & MCCOY BLACK POWDER	wearable garments, namely, hats and shirts
85/869,192	THE LEGENDARY HATFIELD & MCCOY BOURBON	metal keychains
85/869,194	THE LEGENDARY HATFIELD & MCCOY BOURBON	Beverageware
85/869,197	THE LEGENDARY HATFIELD	wearable garments, namely, hats and shirts

App.No.	Mark	Goods/Services
	& MCCOY BOURBON	

8. The marks listed above are referred to hereinafter collectively as the “Legendary Family of Marks.”

9. Application Nos. 85/869,116, 85/869,125, 85/869,132, 85/869,137, 85/869,142, 85/869,145, 86/869,151, 85/869,155, 85/869,177 and 85/869,194 have received Notices of Allowance. Twenty-nine (29) of the above applications received preliminary approval from the USPTO and were published for opposition.

10. In July 2013, A&E started airing the reality show focusing on the Descendants. In the fall 2013, A&E opted to cancel the reality show. However, despite this cancellation, Legendary continues to work with Descendants toward manufacturing and selling distilled spirit beverages.

11. Legendary thus has been and currently is in the business of developing and marketing distilled spirits for sale, particularly including various forms of whiskey (including moonshine). As part of this business Legendary is also in the business of developing and marketing items used to promote the sale of distilled spirits.

12. In manufacturing and creating products utilizing the Legendary Family of Marks, Legendary will, by necessity, utilize apparatus in the form of a still and other associated items.

Applicant

13. Applicant alleges to be a descendant of William Anderson "Devil Anse" Hatfield (“Devil Anse”).

14. Prior to the A&E show airing, Applicant became dissatisfied with her involvement or lack thereof in the reality show. In an effort to gain more favorable

terms relating to the reality show and to interfere with Legendary's plans to manufacture and sell distilled spirit beverages, Applicant filed and is the owner of Trademark Application Serial No. 85/869,214 (the '214 Application") for "HATFIELD AND MCCOY MOONSHINE THE DRINK OF DEVIL ANSE HATFIELD" filed March 7, 2013 under Trademark Act § 1(b) based on intent-to-use.

15. The '214 Application was refused, based upon the priority of Legendary's applications and other bases. In response to the continuing refusals entered in the '214 Application, Applicant has made conflicting statements as to the form and elements of the mark, its usage and its ownership.

16. Applicant some 8 months later filed the Opposed Application with knowledge of, Legendary's previously-filed applications and the Legendary Family of Marks.

17. To further disrupt Legendary's business and attempt to leverage concessions from Legendary, Applicant instituted opposition proceedings in many of Legendary's applications set out above claiming, *inter alia*, that there exists a likelihood of confusion between the Legendary Family of Marks and alleged marks of Applicant by virtue of use of the phrase "Hatfield & McCoy" or similar variant in the marks.

Count I - Likelihood of Confusion

18. Legendary restates and adopts as if more fully set forth in this paragraph the allegations of paragraphs 1 to 17 of this Notice.

19. Each of Legendary's applications listed above has priority over the Opposed Application.

20. Applicant was aware of Legendary's applications and the Legendary Family of Marks at the time of filing the Opposed Application

21. In filing the Opposed Application, Applicant knew of Legendary's rights and legitimate interests in marks substantially identical to the mark of Applicant's '214 Application and Applicant's Opposed Mark.

22. Applicant's Opposed Mark was applied for in bad faith to interfere with Legendary's applications and was intended to trade off of Legendary's current and future goodwill in its Legendary Family of Marks.

23. Applicant's Opposed Mark was applied for primarily to disrupt the business of Legendary.

24. Applicant has no legitimate interest in Applicant's Opposed Mark.

25. Applicant applied for Applicant's Opposed Mark with the intention of creating confusion as to the source, sponsorship, affiliation and endorsement of Legendary's goods, specifically those to be sold under the applied-for Legendary Family of Marks.

26. Applicant's conduct in applying for Applicant's Opposed Mark is inconsistent with norms of reasonable, honest, and fair commercial behavior.

27. The core goods to be sold under Legendary's Family of Marks, distilled alcoholic beverages, are commonly made by and are associated with stills, such that the public and consumers would believe that the goods derive from the same source, and that Applicant and Legendary are related or affiliated or both.

28. Upon information and belief, Applicant's goods and Legendary's goods are likely to be sold, offered and/or used by the same class of purchasers.

29. Upon information and belief, Applicant's goods and Legendary's goods are likely to be offered, promoted and/or sold in the same channels of trade.

30. If Applicant is permitted to use and register Applicant's Opposed Mark, confusion in trade resulting in damage and injury to Legendary would be caused and would result by reason of the confusingly similar nature of Applicant's Opposed Mark and Legendary's Family of Marks. Furthermore any defect, misrepresentation, objection or fault found with Applicant's goods promoted under Applicant's Opposed Mark would necessarily reflect on and seriously injure the reputation that Legendary has established and will establish through use of its Legendary Family of Marks.

31. If Applicant is granted the registration herein opposed, she would thereby obtain at least a *prima facie* exclusive right to the use of Applicant's Opposed Mark. Such registration would be a source of further damage and injury to Legendary.

32. Applicant's Opposed Mark and Legendary's Family of Marks are similar in their entireties as to appearance, sound, connotation and commercial impression. Applicant's Opposed Mark therefore so resembles a mark applied to be registered in the Patent and Trademark Office, when applied to the goods of the applicant, to cause confusion, or to cause mistake, or to deceive. 15 U.S.C. § 1052(d).

33. For the reasons set forth in the foregoing paragraphs, Applicant is not entitled to register Applicant's Opposed Mark and the Opposed Application should be denied in accordance with Section 2(d) of the Lanham Act, 15 U.S.C. § 1052 (d).

Count II - Lack of *Bona Fide* Intent

34. Legendary restates and adopts as if more fully set forth in this paragraph the allegations of paragraphs 1 to 34 of this Notice.

35. Upon information and belief and as stated above, Applicant did not have a *bona fide* intention to use Applicant's Opposed Mark in commerce for the specified goods when she filed her Opposed Application.

36. In the alternative and as an additional, independent basis for relief, Applicant's Opposed Application is therefore void *ab initio*, pursuant to 15 U.S.C. §1051(b), and the Opposed Application should be refused accordingly.

STANDING

37. Legendary is damaged at present by Applicant's Opposed Mark because it will create a likelihood of confusion with Legendary's Family of Marks, obstructs Legendary from expanding its goods into an area of natural expansion and will obstruct Legendary's ability to federally register more marks to be part of its Legendary Family of Marks for use with goods in areas of natural expansion.

38. Legendary is further damaged by the existence of Applicant's Opposed Application because should it mature to registration, it will improperly confer upon Applicant the various benefits of federal trademark registration that can be used against Legendary and its Legendary's Family of Marks.

WHEREFORE, Legendary Hatfield & McCoy Family Brand L.L.C. prays that Application Serial No. 86/135,625 be rejected, and that registration of Applicant's Opposed Mark shown and specified therein be refused and denied, and that this Opposition be sustained in favor of Legendary.

Legendary hereby gives notice under Rule 2.122(d) of the Trademark Rules of Practice that at hearing and in any appeal on this opposition proceeding, it will rely on

Legendary's United States applications as referenced above as evidence in support of this Notice of Opposition.

The \$300 requisite government filing fee is being paid by credit card payment.

Please deduct any additional fees due from Deposit Account 50-5565.

Respectfully submitted,

/s/Don V. Kelly

Don V. Kelly, Registration No. 55323

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Attorney for Legendary Hatfield & McCoy Family
Brand, LLC

Date: July 29, 2014

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Notice of Opposition was sent, via First Class Mail, postage prepaid, this 29th day of July, 2014, to the Attorney for Applicant, as follows:

Daniel Christopherson, Esq.
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/s/Don V. Kelly